Before the
FEDERAL COMMUNICATIONS COMMTSSION
Washington, DC 20554

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In the Matter of	)	
	)	
Amendment of Section 73.622(b),	)	MM Docket No. 03-
Table of Allotments,	)	RM-
Digital Television Broadcast Stations	)	
(Anniston, Alabama)	)	

ORIGINAL

To: Chief, Video Services Division

PETITION FOR RULEMAKING

TV Alabama, Inc. ("TV Alabama"), licensee of television station WJSU-TV NTSC Channel 40, Anniston, Alabama, by its undersigned attorneys and pursuant to Sections 1.401 and 73.623 of the Federal Communications Commission's rules, hereby resubmits its petition for rulemaking to amend the Digital Television ("DTV") Table of Allotments, 47 C.F.R. § 73.622(b), to substitute Channel 9 for Channel 58 as the DTV channel assigned to WJSU-DT. Under this proposal, the DTV Table of Allotments would be amended as follows:

Community	Present	Proposed
Anniston, Alabama	58	9

For the reasons set forth below, and as demonstrated by the attached Engineering Statement of Cavell, Mertz & Davis, Inc. ("Engineering Statement"), TV Alabama submits that the proposed amendment to the DTV Table of Allotments is consistent with the Commission's rules and is in the public interest.

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1. On November 6, 2002, the FCC dismissed TV Alabama's original Petition for Rulemaking seeking to substitute DTV channel 9 for channel 58 because the proposal "would cause objectionable interference to station WTVA, channel 9, Tupelo, Mississippi." *See* Letter from Clay Pendarvis to Thomas Van Wazer dated November 6, 2002, Video Division Reference No. 2-A726, (attached hereto). Although it disagrees with the FCC staffs determination, TV Alabama has reduced the effective radiated power of its proposed DTV channel 9 allotment facility from 19 kW to 15.6kW in order to satisfy the FCC staffs interpretation of the ***de minimis*** interference rule and permit further FCC processing of its channel change request. The attached Engineering Statement demonstrates that the proposed DTV channel substitution as modified is fully consistent with the requirements of Section 73.623(c)(1). No full-power analog or DTV station will receive incremental interference exceeding two percent of the population currently served. *See* Engineering Statement at 2-3 and Table 2. In addition, the proposed channel change will not result in any new interference to stations already experiencing maximum DTV interference (i.e., interference in excess of ten percent of their current NTSC population), nor will it result in interference that would cause another station to begin experiencing DTV interference to greater than ten percent of the population currently served. Id. Finally, no Class A television stations arc impacted by this proposal. Id. at 3.

2. DTV Channel 9 can be allotted to WJSU using the station's authorized NTSC transmitter site in full compliance with the principal community coverage requirements of Section 73.625(a). Id. at 3.

3. The proposed channel substitution would benefit the public interest for several reasons. First, implementing WJSU's DTV operation on an "in core channel" would eliminate the need to change DTV channels yet again at the end of the transition period. TV

Alabama would be able to complete the build-out of its DTV facilities earlier and at less cost, resulting in improved service to the public. The proposed change will also eliminate the potential to confuse or frustrate the public by requiring them to find WJSU-DT on a second channcl.

4. Second, operation on DTV Channel 9 as opposed to DTV Channel 58 would improve signal coverage for viewers in the Anniston DMA. Presently, WJSU-TV operates on NTSC Channel 40. As demonstrated in the Engineering Statement, operation of WJSU utilizing proposed DTV Channel 9 as proposed would achieve a 114 percent increase in the interference-free population (from 616,000 to 1,318,674) served by WJSU's current NTSC Grade B contour. Id. at 1. TV Alabama submits that the public interest would be served by the more efficient use of the broadcast spectrum.

5. Third, TV Alabama submits that its proposal to vacate an out-of-core DTV channel is itself in the public interest. As evidenced by the ongoing public policy debate over the appropriate steps the Commission should take to clear channels 60-69, the process of clearing incumbents from reallocated spectrum is exceedingly difficult. The instant proposal will *make* it casier for the Commission to clear channels 52-59. Accordingly, TV Alabama submits that this facl alone warrants a finding that the proposed channel change request is in the public interest.

CONCLUSION

For the foregoing reasons, TV Alabama respectfully requests that the Commission initiate the rulemaking requested herein to substitute DTV Channel 9 for DTV Channel 58 as the digital television channel assigned to WJSU, Anniston, Alabama.

Respectfully submitted,

TV Alabama, Inc.

By: Thomas P. Van Wazer

Thomas P. Van Wazer
Jennifer Tatel
Its Attorneys

SIDLEY AUSTIN BROWN & WOOD LLP
1501 K Street, N.W.
Washington, DC 20005
202-736-8000

Dated: January 27, 2003

Engineering Statement
prepared for
TV Alabama, Inc.
WJSU-DT Anniston, Alabama
Ch. 9 15.6kW (MAX-DA) 359 m

This engineering statement has been prepared on behalf of *TV Alabama, Inc. ("TV Alabama"),* licensee of WJSU-TV, NTSC Channel 40, Anniston, Alabama. In the Commission's Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders on Advanced Television ("*SMO&O*"),[1] DTV Channel 58 was allotted as a "paired" DTV Channel for WJSU-TV. The instant statement supports a *Petition for Rulemaking* on behalf of *TV Alabama,* to propose a substitute channel for WJSU-DT. DTV Channel 9 is sought as that substitute channel[2].

Discussion

An engineering review of the DTV allotments and NTSC assignments in the region surrounding Anniston showed that an alternate channel could be used for the Channel 58 DTV allotment. Detailed interference studies were conducted with respect to domestic NTSC and DTV allotments and facilities, in accordance with §73.623(c). Consideration was also given to Class A Television stations and Low Power Television (LPTV) stations that are listed as eligible for Class A status. The studies showed that DTV Channel 9 could be used for WJSU-DT at 15.6 kW maximum effective radiated power (ERP) and an antenna height above average terrain (HAAT) of 359 meters. This facility will provide interference-free service to 1,318,674 people[3], which is 114% greater than the 616,000 people served by the baseline WJSU-TV NTSC facility, and 16% greater than the 1,137,000 people served by the DTV Channel 58 reference baseline facility.

The technical data for the proposed Channel 9 allotment are summarized on the following page. The site specified is the same as that for the present WJSU-DT Channel 58 Construction

[1] See MM Docket 87-268, *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service.* FCC 98-315, released December 18, 1998.

[2] TV Alabama is re-submitting the proposal at a lower power level designed to comply with the FCC's current implementation of its *de minimis* DTV interference determination.

[3] 1990 Census

Permit (BPCDT-19991028ACB) and the licensed WJSU-TV Channel 40 (BLCT-19971009KE). The effective radiated power, directional antenna pattern, and antenna height combination is specified as shown (for the proposed "reference" point) as a basis to avoid interference to NTSC, DTV, Class **A** stations, and Low Power Television (LPTV) stations eligible for Class **A** status.

Summary Technical Data for Proposed DTV Channel 9

Coordinates (NAD-27)	33" 36' 24" N-Lat 86° 25' 03" W-Lon
Channel	9
Effective Radiated Power	15.6 kW (MAX-DA) (See **Table 1** for directional antenna relative field azimuth pattern)
Antenna Height	579 m AMSL 359 mHAAT

NISC and DTV Allocation Considerations

Criteria for evaluating the impact of DTV station proposals were released in the Commission's August 10, 1998 Public Notice entitled *"Additional Application Processing Guidelines for Digital Television."* In that Public Notice, the Commission's Mass Media Bureau stated that "interference to [NTSC stations and DTV stations and allotments] affecting less than 2 percent of the population they serve is considered to be *de minimis*. However, any interference is considered unacceptable (there is no amount considered to be ***de minimis)*** if the station to be protected already is receiving interference to more than 10 percent of the population it would otherwise serve...." The same Public Notice states that for DTV proposals, the determination of interference to NTSC and DTV facilities (as calculated per OET Bulletin 69) will be rounded to the nearest tenth of a percent. The August 10, 1998 Public Notice regarding the channel change proposed herein requires that interference criteria (as described above and in §73.623(c)) be utilized to evaluate the new channel facility's impact on NTSC and DTV.

Accordingly, a study was conducted to evaluate the change in interference to pertinent NTSC and DTV assignments that may be attributed to the proposed Channel 9 facility. A detailed interference study was conducted in accordance with the terrain dependent Longley-Rice point-to-point propagation model, per the Commission's Office of Engineering and Technology Bulletin number 69, *Longley-Rice Methodology for Evaluating TV Coverage and Interference*, July 2, 1997 ("OET-69").[4] The interference study examined the net change in interference as experienced by DTV stations that would result from the proposal.

All stations considered in this study are listed in **Table 2.** As shown in **Table 2,** any increase in interference to NTSC and DTV facilities complies with the Commission's 2%/10% "*de* minimis" guidelines. No interference is predicted to any other NTSC or DTV station or allotment. Thus, this proposal is believed to be in compliance with Commission policy regarding DTV channel changes as they may affect NTSC and DTV stations.

Class A Television

An allocation study of possible conflicts was conducted with respect to Class A stations and LPTV stations that may bc eligible for Class A status.[5] The study determined that no Class A stations or eligible LPTV stations *are* close enough to the proposed DTV Channel 9 allotment facility to warrant detailed review. Contour overlap is not caused to any Class A stations or any LPTV station eligible for a Class A license. Therefore, there will be no impact to Class A Television stations as a result of the instant proposal.

Other Considerations

Per the Commission's requirements, the DTV service contour (36 dBμ) of the proposed facility will completely encompass the principal community. Also, the enhanced principal

[4] The implementation of OET-69 fur this study followed the guidelines of OET-69 as specified therein. A standard cell size of 2 kin was used. Comparisons of various results of this computer program (run on a Sun processor) to the Commission's implementation of OET-69 show good correlation,

[5] See *Establishment of a Class A Television Service,* MM Docket 00-10, FCC 00-115, released April 4, 2000.

community coverage requirement of 43 dBu[6] (required by December 31, 2004 for commercial stations) will be met by the proposed DTV facility.

The ERP of 15.6kW and 359 meter antenna HAAT combination of the proposed facility does not exceed the Zone II limits as set forth in §73.622(f)(7)(i) of the Rules.

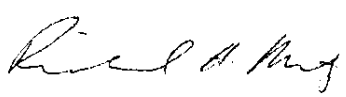
Summary

It is proposed that DTV Channel 9 be allotted to Anniston, Alabama as a substitute for Channel 58. The substitution complies with the Commission's requirements regarding protection to NTSC, DTV, and Class A facilities.

Certification

The foregoing statement was prepared by the undersigned and is believed to be true and correct to his knowledge and belief, Mr. Mertz is a principal in Cavell, Mertz, and Davis, Inc. and has files numerous submissions with the Federal Communications Commission. His qualifications are a matter of record with that agency.

Respectfully submitted,



Richard H. Mertz
January 24, 2003

Cavell, Mertz & Davis, Inc
7839 Ashton Avenue
Manassas, VA 20109
(703) 392-9090

[6] *Memorandum Opinion and Order on Reconsideration, Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television,* MM Docket 00-39, FCC 01-330, released November 15, 2001, at para. 37.

Table 1

DIRECTIONAL ANTENNA RELATIVE FIELD PATTERN

prcparcd for

TV Alabama, Inc.

WJSU-DT Anniston, Alabama

Ch. 9 15.6kW (MAX-DA) 359 m

Azimuth (°T)		Relative Field	Azimuth (°T)		Relative Field
0		0.528	180		0.755
10		0.506	190		0.817
16	*minimum*	0.503	200		0.872
20		0.505	210		0.918
30		0.519	220		0.954
40		0.542	230		0.980
50		0.564	240		0.995
60		0.580	250	*maximum*	1.000
70	*lobe*	0.586	260		0.995
80		0.580	270		0.980
90		0.564	280		0.954
100		0.542	290		0.918
110		0.519	300		0.872
120		0.505	310		0.817
124	*minimum*	0.503	320		0.755
130		0.506	330		0.690
140		0.528	340		0.626
150		0.569	350		0.569
160		0.626			
170		0.690			

Table 2

INTERFERENCE ANALYSIS RESULTS SUMMARY

prepared for

TV Alabama, Inc.

WJSU-DT Anniston, Alabama

Ch. 9 15.6 kW **(MAX-DA)** 359 m

DTV Facilities

Stations Considered	City, Stare Channel	Distance (km)	Basline Population (1)	Calculated "Before" Service Population (2)	Calculated "After" Service Population (3)	--- Net "New" Interference --- ("2 pcrcent'' test) Population (4)	Percentage (5)	Pcrcsntage Reduction of Baseline Population ("10 percent" test) (6)
WALA-DT (CP 124.0 kW)	Mobile, AI 9	348.9	1,008,000	1,145,521	1,145,521	0	0.00	0.00
WALA-DT (Ref 16 5 kW)	Mobile, AL 9	**348.9**	1,008,000	1,007,992	1,007,992	0	0.00	0.00
WPCX-DT (CP MOD)	Panama City, FL 9	386.9	3 12,000	305,137	305, 137	0	0.00	0.00
WPGX-DT (PRM)	Panama City, FL 9	386.9	312,000	305.21 I	305,21 I	0	0.00	0.00
WLBT-TV (PRM)	Jackson, MS 9	401.8	---------- no interference caused by proposal ----------					
WNTV-DT (CP 90 0 kW)	Greenville, SC 9	397.6	---------- no interfcrence caused by proposal ----------					
WNTV-DT (Rcf 5 1 kW)	Greenville, SC 9	397.6	---------- no interfcrence caused by proposal ----------					
WXIA-DT (CP 80 0 kW)	Atlanta, CA 10	194 I	----------no interference caused by proposal ----------					
WXIA-DT (Ref 15 7 kW)	Atlanta, GA 10	194.1	---------- no interfcrence caused by proposal ----------					

Table 2

INTERFERENCE ANALYSIS RESULTS SUMMARY

NTSC Facilities

Stations Considered	City, State	Distance	Baseline Population (1)	Calculated "Before" Service Popularion (2)	Calculated "After" Service Population (3)	--- Net "New" Interference ~ - - ("2 pcrcenr" rest) Population (4)	Percentage (5)	---Total Interference--- from DTV only ("I 0 pcrcenr" rest) Pouulation (7)	Percentage (8)
WAKA(TV) (LIC)	Selma, AL 8	165.1	679,557	611,585	611.585	0	0.00	19,716	2.90
WGTV(TV) (LIC)	Athens, **GA** 8	211.9	---------- no interference caused by proposal -------						
WTVM(TV) (LIC)	Columbus, **GA** 9	209.1	1,000,871	71 1,041	702,629	8,412	0.84	23,122	2.31
WTVA(TV) (LIC)	Tupelo, MS 9	248.4	683,128	617,347	604,000	13.347	1.95	13,615	1.99
WTVC(TV) (CP)	Chattanooga, TN 9	199 8	1,143,022	892,583	873,899	18,684	1.63	18,826	1.65
WTVC(TV) (LIC)	Chattanooga, TN 9	199.9	1,145,614	887,919	869,907	18.012	1.57	20,956	1.83
WBIQ(TV) (CP)	Birmingham, **AL** 10	38.6	1,615,330	1,405,584	1,396,381	9,203	0.57	45,355	2.81
WBIQ(TV) (LIC)	Birmingham, **AL** 10	37.8	1,581,341	1,375,297	1,364,058	11,239	0.71	64,049	4.05

Table 2

INTERFERENCE ANALYSIS RESULTS SUMMARY

Notes:

(1) For **DTV** stations, greater of NTSC or **DTV** Service Population, from FCC Table For NTSC stations, total population within noise-limited contour

(2) Service population after reduction from terrain and interfercnce losses, before considcratioii of proposal

(3) Service popularion after reduction from tcnain and interference losses, considering proposal

(4) Net change in popularion receiving interference resulting from proposal, equals (2) minus (3). A negative number indicates a *reduction* in inrerfercnce.

(5) Proposal's impact in terms of pcrcentagc, equals (4)/(1) times 100 percent: not to exceed *de minimis* limit of 2.0 percent

(6) Total interference to **DTV** stations: cquals 100 percent minus [(3)/(1) X 100%]; proposal may not add inrerfercnce above 10% total. Zcro total intcrferencc is indicated if (3) is greater than (1).

(7) NTSC station total population subject to interfcrcnce from DTV only sources (considering proposal)

(8) Proposal's impact to NTSC station in terms of percentage. equals (7)/(1) times 100 percent, proposal may not add interfcrcnce above 10% total

The determination of stations for consideration and the determination of baseline population and interfercnce percentages were made as described in the Commission's August 10, 1998 Public Notice *"Additional Application **Processing** Guidelines for Digital **Television**"*

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

NOV 06 2002

IN REPLY REFER TO:
2-A126

Thomas P. Van Wazer
Jennifer Tatel
Sidley & Austin
1722 Eye Street, N.W.
Washington, DC 20006

Re: Petition for Rulemaking
Facility ID No. 133029
Anniston, AL

Dear Counsel:

This is with respect to the Petition for Rulemaking that was filed by TV Alabama, Inc., the licensee of NTSC station WJSU-TV, channel 40, Anniston, Alabama, to change the digital television Table of Allotments to specify channel 9 in lieu of channel 58 at Anniston. Our engineering review indicates that the substitution of Channel 9 at Anniston would cause objectionable interference to station WTVA, Channel 9, Tupelo, MS. Accordingly, the petition for Rulemaking is HEREBY DISMISSED.

Sincerely,

Clay C. Pendarvis
Associate Chief
Video Division
Media Bureau